

Assembly Bill No. 1234

CHAPTER 448

An act to amend Section 1215.8 of the Insurance Code, relating to insurance.

[Approved by Governor September 19, 2014. Filed with
Secretary of State September 19, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1234, Levine. Insurance: registration statements.

Existing law governs the business of insurance and authorizes the Insurance Commissioner to provide oversight over the insurance industry, including conducting investigations and bringing enforcement actions.

Existing law requires each insurer that is authorized to do business in this state and that is a member of an insurance holding company system to register with the commissioner and to file a registration statement containing specified information, including the capital structure and general financial condition of the insurer and specified transactions between the insurer and its affiliates.

Existing law makes the information reported to the commissioner in the registration statement and information disclosed in the course of an examination or investigation of the registration statement exempt from subpoena or public disclosure, except as specified.

This bill would instead make information reported to the commissioner in the registration statement and information disclosed in the course of an examination or investigation of the registration statement exempt from public disclosure by the commissioner and not subject to discovery from the commissioner or admissible into evidence in any private civil action if obtained from the commissioner in any manner, except as specified.

Existing constitutional provisions require that a statute that limits the public's right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The people of the State of California do enact as follows:

SECTION 1. Section 1215.8 of the Insurance Code is amended to read:

1215.8. (a) All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Sections 1215.4 and 1215.5, and all information reported pursuant to Section 1215.4, shall be kept

confidential, is not subject to disclosure by the commissioner pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), is not subject to subpoena, and is not subject to discovery from the commissioner or admissible into evidence in any private civil action if obtained from the commissioner in any manner. This information shall not be made public by the commissioner or any other person except to insurance departments of other states without the prior written consent of the insurance company to which it pertains, unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event he or she may publish all or any part thereof in a manner as he or she may deem appropriate.

(b) In order to assist in the performance of the commissioner's duties, the commissioner:

(1) May, upon request, be required to share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subdivision (a), with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in Section 1215.7; provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information, and has verified in writing the legal authority to maintain confidentiality.

(2) Notwithstanding paragraph (1), may only share confidential and privileged documents, materials, or information reported pursuant to subdivision (m) of Section 1215.4 with commissioners of states having statutes or regulations substantially similar to subdivision (a) and who have agreed in writing not to disclose the information.

(3) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

(4) May enter into written agreements with the NAIC governing sharing and use of information provided pursuant to this subdivision consistent with this subdivision that shall do the following:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators.

(B) Specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision remains with the commissioner and the NAIC's use of the information is subject to the direction of the commissioner.

(C) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC pursuant to this subdivision is subject to a request or subpoena to the NAIC for disclosure or production.

(D) Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision.

(c) The sharing of information by the commissioner pursuant to this subdivision shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this article.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subdivision (c).

(e) Documents, materials, or other information filed in the possession or control of the NAIC pursuant to this subdivision shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 1215.8 of the Insurance Code, imposes limits on the public's right of access to meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect proprietary information, it is necessary to enact legislation that limits the public's right of access to insurance holding company system information that is provided pursuant to Section 1215.8 of the Insurance Code.